

1 MORRISON & FOERSTER LLP  
2 MICHAEL A. JACOBS (Bar No. 111664)  
3 mjacobs@mofo.com  
4 MARC DAVID PETERS (Bar No. 211725)  
5 mdpeters@mofo.com  
6 DANIEL P. MUINO (Bar No. 209624)  
7 dmuino@mofo.com  
8 755 Page Mill Road  
9 Palo Alto, CA 94304-1018  
10 Telephone: (650) 813-5600 / Facsimile: (650) 494-0792

11 BOIES, SCHILLER & FLEXNER LLP  
12 DAVID BOIES (Admitted *Pro Hac Vice*)  
13 dboies@bsflp.com  
14 333 Main Street  
15 Armonk, NY 10504  
16 Telephone: (914) 749-8200 / Facsimile: (914) 749-8300  
17 STEVEN C. HOLTZMAN (Bar No. 144177)  
18 sholtzman@bsflp.com  
19 1999 Harrison St., Suite 900  
20 Oakland, CA 94612  
21 Telephone: (510) 874-1000 / Facsimile: (510) 874-1460

22 ORACLE CORPORATION  
23 DORIAN DALEY (Bar No. 129049)  
24 dorian.daley@oracle.com  
25 DEBORAH K. MILLER (Bar No. 95527)  
26 deborah.miller@oracle.com  
27 MATTHEW M. SARBORARIA (Bar No. 211600)  
28 matthew.sarbicularia@oracle.com  
500 Oracle Parkway  
Redwood City, CA 94065  
Telephone: (650) 506-5200 / Facsimile: (650) 506-7114

18 *Attorneys for Plaintiff*  
19 ORACLE AMERICA, INC.

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ORACLE AMERICA, INC.

Plaintiff,

v.

GOOGLE INC.

Defendant.

CASE NO. CV 10-03561 WHA

**[PROPOSED] ORDER GRANTING  
ORACLE AMERICA'S MOTION FOR  
ADMINISTRATIVE RELIEF TO  
DEEM FACTS ADMITTED BY  
GOOGLE**

Judge: Honorable William H. Alsup

1 The Court has read and considered Oracle’s Motion for Administrative Relief to Deem  
2 Facts Admitted by Google. Based on the arguments presented in the motion, the pleadings on  
3 file, and any other relevant matter, the following facts shall be deemed admitted for purposes of  
4 the upcoming trial:

1. Google has admitted that the 37 Java APIs meet the threshold for originality required by the Constitution.
2. Google has admitted that Android incorporates the same selection, arrangement and structure of API elements as Java 2 SE does for the 37 API packages at issue.
3. Google has admitted that the Java programming language is distinct from the Java APIs and class libraries.
4. Google has admitted that the only way to demonstrate compatibility with the Java specification is by meeting all of the requirements of Sun's Technology Compatibility Kit ("TCK") for a particular edition of Sun's Java.
5. Google has admitted: TCKs were only available from Sun, initially not available as open source, were provided solely at Sun's discretion, and included several restrictions, such as additional licensing terms and fees. In essence, although developers were free to develop a competing Java virtual machine, they could not openly obtain an important component needed to freely benefit from Sun's purported open-sourcing of Java.
6. Google has admitted: Although Sun offered to open source the TCK for Java SE, Sun included field of use ("FOU") restrictions that limited the circumstances under which Apache Harmony users could use the software that the Apache Software Foundation created. Sun refused the ASF's request for a TCK license without FOU restrictions.

IT IS SO ORDERED.

Date:

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Honorable William H. Alsup  
Judge of the United States District Court